

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO**

PATRICK CHAVEZ, et al.,

Plaintiffs,

v.

CIV 02-0562 JH/ACT

CITY OF ALBUQUERQUE,

Defendant.

NOTICE OF CROSS-APPEAL

Notice is hereby given that the City of Albuquerque, defendant, cross-appeals to the United States Court of Appeals for the Tenth Circuit from the Final Judgment (doc. 306) entered in this action on the 30th day of September, 2009; and from the Findings of Fact and Conclusions of Law (doc. 278) and the Partial Judgment (doc. 281), entered in this action on the 17th day of January, 2008, finding in favor of Plaintiffs and against the City of Albuquerque on Plaintiffs' claims that the City fails to include vacation and sick leave buy back in the calculation of the statutory "regular rate" of pay in violation of the Fair Labor Standard Act's overtime pay requirements.

Respectfully submitted,

CITY OF ALBUQUERQUE

Robert M. White
City Attorney

s/ Electronically signed

Michael I. Garcia
City of Albuquerque Legal Department
P.O. Box 2248
One Civil Plaza
Albuquerque, New Mexico 87102

Edward W. Bergmann
Seyfarth Shaw LLP
131 S. Dearborn Street
Chicago, Illinois 60603
312-460-5000

I hereby certify that on the 10th day of
November, 2009, a true and correct copy
of the foregoing pleading was filed
electronically and e-mailed to the following
counsel of record:

Sam Bregman
Eric Loman
111 Lomas Blvd., N.W., Suite 230
Albuquerque, N.M. 87102

Paul Livingston
P.O. Box 250
Placitas, N.M. 87043

s/ Electronically signed
Edward B. Bergmann